

JUL 23 1985

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

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In the Matter of the Petition of

BARRON COUNTY

To Initiate Mediation-Arbitration

between said Petitioner and

Decision No. 22466-A

NORTHWEST UNITED EDUCATORS

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Appearances: Alan D. Manson, Executive Director for the Union  
Michael J. Burke, Attorney at Law for the Employer

Barron County, hereinafter referred to as the Employer, filed a petition with the Wisconsin Employment Relations Commission, herein after referred to as the Commission, alleging that an impasse existed between it and the Northwest United Educators, hereinafter referred to as the Union, in their collective bargaining. It requested that the Commission initiate Mediation-Arbitration pursuant to Sec. 111.70(4)(cm)6 of the Municipal Employment Relations Act. A member of the Commission's staff conducted an investigation in the matter.

The Union is the exclusive collective bargaining representative of all regular full-time and part-time public health nurses, registered nurses, and the WIC Director employed by the Employer, excluding the Director of the Public Health Agency and all confidential, managerial and supervisory personnel. The Employer and Union have been parties to a collective bargaining agreement covering the wages, hours and working conditions of those employees and it expired on December 31, 1984. On August 30, 1984 the parties exchanged their initial proposals on matters to be included in a new collective bargaining agreement. Thereafter the parties met on one occasion in an effort to reach an accord on a new collective bargaining agreement. After the Employer filed the petition requesting Mediation-Arbitration, an investigation was scheduled by the Commission for December 4, 1984 but it was cancelled. The parties then waived an informal investigation and submitted final offers and stipulations to the Commission.

The Commission has concluded that an impasse exists between the parties with respect to a new collective bargaining agreement covering wages, hours and conditions of employment, and it directed that Mediation-Arbitration be initiated. The parties selected Zel S. Rice II as the Mediator-Arbitrator and the Commission issued an order directing him to endeavor to mediate the issues in dispute. Should such endeavor not result in a resolution of the impasse between the parties, the Mediator-Arbitrator was directed by the Commission to issue a final and binding award pursuant to Section 111.70(4)(cm)6 c through h of the Municipal Employment Relations Act to resolve the impasse by selecting either the total final offer of the Union or the total final offer of the Employer.

The only matter upon which the parties were unable to reach agreement was the issue of wages. The Union's final offer, attached hereto and marked Exhibit "A", proposes a wage increase of 3% on January 1, 1985 and another increase of 5% on July 1, 1985. The Employer's final offer, attached hereto and marked Exhibit "B", proposes that the members of the bargaining unit be given an increase of 3% on January 1, 1985 and another 2% on July 1, 1985. The mediation phase of the proceedings was concluded at Barron, Wisconsin on May 7, 1985. After a period of mediation, the parties remained at impasse. When neither party was willing to move, the mediation phase was terminated and the parties made their evidentiary presentations. Simultaneous briefs were submitted by the parties on June 21, 1985.

There are twelve employees involved in the bargaining unit. Four of them are public health nurses, seven are health care nurses and one is the WIC Director. On March 2, 1985 the Employer and the Union entered into agreement to establish a team-leader classification to which up to two employees could be

assigned during 1985. The wage rate for the team-leader classification is the same as the rate for the public health nurse classification. That agreement automatically expires on December 31, 1985 unless otherwise agreed upon in writing between the parties.

In prior Mediation-Arbitration proceedings the Employer and the Union have utilized a comparable group consisting of the Employer and eight other counties that are adjacent to the Employer. They are Burnett, Chippewa, Dunn, Polk, Rusk, St. Croix, Sawyer and Washburn Counties. The Employer had a 1980 population of 38,730 people and it ranked 31st in population in the State of Wisconsin. Burnett County had a population of 12,340 and its population ranked 65th in the State. Chippewa County had a population of 51,702 and ranked 24th in the State. Dunn County had a population of 34,314 and ranked 35th in the State. Rusk County had a population of 15,589 and its population ranked 59th. St. Croix County had a population of 43,872 and it ranked 27th in the State. Sawyer County had a population of 12,843 and it ranked 66th. Washburn County had a population of 13,174 and it ranked 63rd. In 1982 the Employer had an equalized valuation of \$987,717,910.00 and its 1981 tax rate was \$19.81 per thousand. Burnett County had an equalized valuation of \$454,533,030.00 and its 1981 tax rate was \$17.90 per thousand. Chippewa County had an equalized valuation of \$1,071,949,800.00 and its 1981 tax rate was \$18.63 per thousand. Dunn County had a 1982 equalized valuation of \$751,014,690.00 and its 1981 tax rate was \$21.05 per thousand. Polk County had a 1982 equalized valuation of \$921,049,190.00 and its 1981 tax rate was \$19.66 per thousand. Rusk County had a 1982 equalized valuation of \$328,253,640.00 and its 1981 tax rate was \$20.83 per thousand. St. Croix County had a 1982 equalized valuation of \$1,194,536,570.00 and its 1980 tax rate was \$20.53 per thousand. Sawyer County had a 1982 equalized valuation of \$468,983,900.00 and it had a 1981 tax rate of \$18.05 per thousand. Washburn County had a 1982 equalized valuation of \$383,397,550.00 and its 1981 tax rate was \$18.59 per thousand. The 1979 per capita incomes of the comparable group were \$5,174.00 for Barron County, \$4,114.00 for Burnett County, \$5,000.00 for Chippewa County, \$4,929.00 for Dunn County, \$5,341.00 for Polk County, \$4,269.00 for Rusk County, \$6,453.00 for St. Croix County, \$4,356.00 for Sawyer County and \$4,596.00 for Washburn County. In 1982 the public health agency home care employee maximum end-of-year rates for Chippewa, Dunn, Polk and St. Croix Counties ranged from a low of \$8.16 an hour to a high of \$9.59 an hour with an average of \$8.86 per hour. The Employer paid its employees in that classification \$7.82 per hour. In 1983 those same counties had maximum end-of-year rates for those employees ranging from a low of \$8.46 per hour in Polk County to a high of \$10.36 per hour in Chippewa County with an average of \$9.38 per hour. The Employer paid its employees in that classification \$8.21 per hour. In 1984 the maximum end-of-year rates in the four counties ranged from a low of \$8.86 per hour in Polk County to a high of \$10.84 per hour in Chippewa County with an average of \$9.86 per hour. The Employer paid its employees in that classification \$8.62 per hour. In 1985 the maximum end-of-year rates for public health agency home care employees ranged from a low of \$9.54 in St. Croix County to a high of \$11.27 in Chippewa County with an average of \$10.47 per hour. The Union's final offer would provide those employees with a salary of \$9.32 per hour at the end of the year and the Employer's proposal would provide them with \$9.06 per hour. Lakeview Medical Center, which is a private home-care agency in the Employer's county, has one employee that it pays \$9.75 per hour. Chippewa County paid its public health agency employees \$10.00 per year longevity after three years. Dunn County paid its public health agency employees longevity pay of \$10.00 per month for a total of \$120.00 per year beginning the tenth year. Polk County pays its public health agency employees longevity pay of 3¢ an hour every five years. St. Croix County and the Employer do not pay longevity pay to their public health agency employees. The 1982 maximum end-of-year rates for the public health nurse in the counties of Chippewa, Dunn, Polk and St. Croix range from a low of \$8.83 in Polk County to a high of \$10.78 in Chippewa County and average \$9.69 per hour. The Employer paid its public health nurse \$8.41 per hour in 1982. In 1983, the public health nurse maximum end-of-year rate in those four counties ranged from a low of \$9.13 in Polk County to a high of \$11.64 per hour in Chippewa County with an average of \$10.26 per hour. The Employer paid its public health nurse a maximum end-of-year rate of \$8.83 that year. In 1984, the four counties paid their public health nurses maximum end-of-year rates ranging from a low of \$9.54 per hour in Polk County to a high of \$11.21 per hour in Chippewa County with an average of \$10.52. The Employer paid its public health nurses maximum

end-of-year rates of \$9.27 that year. In 1985, the maximum end-of-year rates for public health nurses in those four counties range from a low of \$10.07 per hour in Polk County to a high of \$11.65 in Chippewa County with an average of \$11.07. The Union's final offer would establish a maximum end-of-year rate of \$10.03 per hour while the Employer's final offer would establish it at \$9.74 per hour.

The Employer maintains the home care program and the home care services performed by it are billable to the patient. Most of the billings are paid by Medicare or other insurances. Prior to December 1981 the Employer had accumulated a surplus of \$128,007.63 over and above all of its out-of-pocket expenses as a result of collections for services rendered to home care patients. In December of 1981 the Employer changed its accounting system and there is no longer a home care account. The WIC Program is a nutrition program financed by federal funds. The Employer's WIC director is a registered dietitian. Chippewa County paid its WIC director \$12.12 per hour in 1983. St. Croix and Polk County shared the services of a WIC director in 1983 and paid her \$10.62 per hour.

In 1984 the Employer had twelve employees and their total salary was \$176,401.93. The salaries for the full-time employees range from a low of \$11,941.77 for a home care employee to a high of \$18,982.60 for the WIC director. The Employer's final offer would provide hourly salaries ranging from a low of \$8.44 an hour to a high of \$10.74 an hour beginning January 1, and from a low of \$9.06 an hour to a high of \$10.95 an hour beginning July 1. The annual salaries resulting from the Employer's proposal would range from a minimum of \$8,776.95 for a part-time employee to a high of \$19,737.90 for the WIC director. The Union's proposal would provide salaries on January 1, 1985 ranging from a low of \$8.44 an hour to a high of \$10.74 an hour on January 1 and from a low of \$9.32 an hour to \$11.28 an hour beginning July 1. The annual salaries would range from a low of \$8,908.90 for a part-time employee to a high of \$20,038.20.

The Employer's proposal would have an annual cost of \$187,981.05 in 1985 and that is \$11,579.12 more than the 1984 cost, resulting in an increase of 6.6%. The Union's proposal would raise the total cost of the salaries to \$191,307.07, which is an increase of \$14,905.14 over the preceding year. That would result in an increase of 8½%. The Employer's Wisconsin Retirement Fund contributions would increase by \$1,366.33 under the Employer's proposal and \$1,758.80 under the Union's proposal. The FICA contributions would increase \$904.52 under the Employer's proposal and \$1,139.01 under the Union's proposal. The Employer's health insurance premiums have increased from \$6,631.20 in 1984 to \$8,032.80 in 1985 for a total increase of \$1,401.60. The Employer's total payroll cost under its proposal would be \$231,448.27, which is \$15,251.57 over the preceding year and an increase of 7.1%. The Union's proposal would increase the Employer's total payroll cost to \$235,401.25, which is an increase of \$19,204.55 over the preceding year and that is an increase of 8.9%. Using the year-end rates only, the Employer's cost for wages would increase \$13,403.87 to \$189,835.80 under its proposal. That would be an increase of 7.6%. The Union's proposal would result in a year-end wage cost of \$195,376.08 which is an increase of \$18,974.15. That would be a 10.76% increase. The Wisconsin Retirement Fund contribution of the Employer would increase to \$22,400.62 under its proposal for an increase of \$1,585.19 over the preceding year. Based on year-end rates, the Employer's contribution to the retirement fund would be \$23,054.38 and that is an increase of \$2,238.95 over the preceding year. The Employer's increase in the contribution toward health insurance of \$1,401.00 would make its total salary cost, based on year-end rates, \$233,652.64. That is an increase of \$17,455.94 or 8.1%. The Employer's total cost based on the year-end rates of the Union's proposal would be \$240,237.27, which is an increase of \$24,040.57 or 11.1%.

The Employer has reached agreement with its courthouse employees for 1985 and it provides for an increase of 3% on January 1, 1985 and 2% on July 1, 1985. The same type of agreement was reached with the law enforcement unit and the highway employees. It has offered its Social Services employees increases of 3% on January 1 and 2% on July 1, but the Union has demanded that the non-professional employees receive increases of 3% on January 1 and another 3% on July 1. It has been stipulated that professional employees in the Department of Social Services will receive 3% on January 1 and 2% on July 1.

In 1979 the Employer reached agreement with its courthouse employees on a 9% increase. Agreement was reached in 1980 on an increase of 8% on January 1 and 3% on October 1. In 1978 the Employer reached agreement with its highway employees on an 8% increase and in 1979 they agreed on an increase of 8% or 40¢ an hour. In 1980 the highway employees agreed to increases of 7% or 40¢ per hour. The total package cost increase in 1980 was 8.7% or 51¢ per hour. In 1981 the highway employees received an increase of 9.38% as a result of an arbitration and the total increase in cost was 10.28%. The social services employees agreed to a 9% increase in 1978 and a 7½% increase in 1979. In 1980 they received a 7% increase as a result of a mediation-arbitration hearing, and in 1981 they received 6% on January 1 and 2% on July 1 as a result of an arbitration proceeding. The public health department employees received an 11.1% increase in 1979 as a result of an arbitration. They received another increase of 11.1% in 1980 as a result of an arbitration and in 1981 they reached agreement on an increase of 70¢ per hour. In 1982 the courthouse employees reached agreement on an average increase of 7.6%. The overall increase for the year was 8.5%. In 1983 courthouse employees reached agreement on a 5% increase and that same type of agreement was reached in 1984. In 1982 the law enforcement employees reached agreement on average increases of 7.47%. The year-end increase amounted to 8½%. In 1983 and 1984 they agreed to 5% increases each year. In 1982 the highway employees reached agreement on increases resulting in a year-end total increase of 8½%. In 1983 and 1984 they reached agreement on increases of 5%. In 1982 the social services employees reached agreement on increases of 8½% at the year-end. They agreed to increases of 5% in 1983 and 1984. There were some individual adjustments in July of 1984. The public health department reached agreement on an average increase of 7.5% in 1982 with the year-end average increase of 8½%. The total package increase was 7.83%. In 1983 the public health employees received increases of 5% that resulted in a total package increase of 5.36%. These results were received through an arbitration. In 1984 the public health employees received a 5% increase as a result of an arbitration award.

An economic profile of the Employer reveals that its median family income in 1982 ranked 44th among the 71 counties in the State of Wisconsin. Sixty-two percent of its total agricultural income in 1980 came from dairying and it ranked 11th in Wisconsin in cash receipts from dairy product sales. Cash receipts from livestock and livestock products accounted for 90% of the income from all commodities. Seventeen and four-tenths percent of the Employer's employed persons are engaged in agriculture as opposed to an average of 12.4% in the comparable counties. Its 1980 median household income of \$16,560.00 is 76% of the state average. The decline in prices received by the dairy industry in 1984 and 1985 has been significant and the immediate future offers no promise of improvement.

Seven of the eight counties that are contiguous to the Employer have reached agreement on wage increases for 1985. Burnett County employees will receive a 4% increase. Chippewa County employees will receive a 4% increase as part of the second year of a two year agreement. Dunn County employees will receive 5% on January 1, 1985 and 2½% on July 1, 1985. That is part of a three year agreement buying out a cost of living provision in an old agreement. Polk County has given its Public Health Department employees an average increase of 4%. Rusk County has agreed to give its employees an increase of 3% on January 1, 1985 and 2% on July 1, 1985. Sawyer County employees will receive a 5% increase during 1985 as part of the second year of a two year agreement. St. Croix County employees have reached agreement on a 1985 wage calling for a 4% increase. Six of the largest private sector employees within the geographical borders of the Employer have paid 1985 increases ranging from 0 to 50¢ per hour. American Excelsior Company gave its employees a 50¢ an hour increase raising its minimum wage to \$5.81 an hour and the maximum to \$6.28 an hour. Birchwood Manufacturing Company gave its employees no increase in 1985 and its minimum wage remains at \$5.40 and the maximum is \$6.70. Johnson Truck Bodies gave its employees a 39¢ an hour increase which was 3.7%. Minnesota Mining & Manufacturing Company gave its employees a 45¢ an hour increase which was 5%. Seneca Food Corporation has no wage increase scheduled until September of 1985. Townsend-Pillar Packing, Inc. gave its employees an increase of 25¢ an hour raising the wage scale to \$5.75 per hour.

Between January of 1984 and December of 1984, the cost of living index increased from 302.7 to 312.2. This was an increase of 9.5 points or 3.1% for urban wage earners and clerical workers. The all urban consumers increase was 3.3% during that same period. The rate of increase of the CPI in December 1984 was 4% for the all urban consumers index and 3.5% for the urban wage earners and clerical workers index.

#### UNION'S POSITION:

The Union argues that the Employer's nurses have not been treated fairly in the past and to give them what appears to be a uniform increase only perpetuates the past inequity. It points out that the Employer's social workers, when compared to social workers in the four most comparable counties, are paid at or above the average on an hourly basis. It argues that to provide both the social workers and the nurses with the same percentage increase when the nurses are \$1.00 an hour below the average rate is unfair and catch-up is needed for the nurses. The Union contends that the Employer collects more for services from its home care patients than it pays for operating its home care program. The Union argues that all counties in the comparable group maintain public health agencies and the four most comparable have established maximum pay rates for public health nurses and registered nurses in home care programs. It asserts that the Employer's nurses were so far behind the comparable group in wages in 1984 that in order to maintain the same dollar and cents amount below the average wage of the four most comparable counties, a 5.7% to 5.8% increase is necessary. It asserts that such an increase would keep the Employer's nurses approximately \$1.25 per hour below the average of the nurses in the four most comparable groups. It contends that its proposal for 1985 only allocates 2.3%, or 20¢-23¢ per hour, toward catch-up. It argues that the Employer's nurses would still be more than \$1.00 an hour below the average of the four most comparable counties. The Union contends that the concept of direct wage comparisons with readily-available groups of other employees doing similar work when there is no great difference in working conditions is a prime factor to be considered in arbitration under Section 111.70 of the Wisconsin Statutes. The Union argues that the Employer has the legal authority to meet the terms of the Union's offer and ability to pay is not an issue. It takes the position that the interests of the public in terms of receiving consistent and competent health care are better served by providing the Employer's nurses with wages close to the average. The Union concedes that the cost of living and the state of the economy has an impact on the rural areas of Northwest Wisconsin and are relevant considerations. However, it argues that since they serve as a common backdrop for all the comparables involved, and do not single out the Employer, they do not detract from the validity of its argument for pay equity.

#### EMPLOYER'S POSITION:

The Employer argues that its final offer is more reasonable when compared with the increases received by other employees of the Employer and more accurately reflects increases in the cost of living. It takes the position that the current economic conditions in agriculture and the overall economy of Northwestern Wisconsin makes its proposal more reasonable when the interest and welfare of the public is considered. The Employer asserts that the bargaining history between the parties does not support a "catch-up" increase. While the Union argues that the appropriate comparables for the Employer are the four contiguous counties of Chippewa, Dunn, Polk and St. Croix, hereinafter referred to as Comparable Group A, the Employer proposes that the eight contiguous counties of Burnett, Rusk, Sawyer, Washburn, Chippewa, Dunn, Polk and St. Croix, hereinafter referred to as Comparable Group B, should be the major basis for comparison. The Employer has a population slightly lower than the average for Comparable Group A and well above the average for Comparable Group B. The average per capita income of Comparable Group A is higher than the per capita income of the Employer and the average per capita income for Comparable Group B is smaller. The Employer's equalized valuation is close to the average of Comparable Group A and almost double that of Comparable Group B. The average mill rate for Comparable Group A is slightly higher than the Employer's and the average mill rate for Comparable Group B is somewhat lower.

## DISCUSSION:

The Employer and the Union have been involved in a number of arbitrations and initially the comparable group was not an issue. In the 1980 case involving nursing personnel decided by Arbitrator Kerkman, there was no question of comparables and the Employer and the Union utilized all eight contiguous counties. In the 1982 arbitration proceedings before Arbitrator Imes that involved the Highway Department, both parties to the dispute (the Union was not a party to that proceeding) were in agreement that the appropriate external comparison group consisted of the eight contiguous counties. In a 1983 arbitration involving the Union and the Employer, Arbitrator Fleischli addressed the Employer's proposal that all eight contiguous counties constitute the comparable group and the Union's proposal that the four largest counties constitute the comparable group. Fleischli was of the opinion that all eight contiguous counties were comparable. He conceded that the Employer was closer in terms of population to Comparable Group A than Comparable Group B, but he pointed out that no group of comparables provided an exact basis for comparison. Fleischli found the eight counties constituting Comparable Group B and utilized by the Employer and the Union in prior arbitrations was a useful group for comparison purposes, although he did state that there were differences in size and other factors that might justify differences in the relative relationship between the Employer and the eight counties making up Comparable Group B.

In the 1984 award of Arbitrator Krinsky, the Employer contended that the eight contiguous counties should be the comparable group while the Union argued that the four largest contiguous counties were a more proper comparable group. Krinsky found that both sets of comparisons were relevant and he used them both. Over the years, Comparable Group B has been consistently used as the primary comparable group to which the Employer should be compared. There are differences as well as similarities between the Employer and each of the eight counties in Comparable Group B and those differences and similarities vary with each county that is being compared. Melded together they reflect a standard that the arbitrator should consider. Comparisons with Comparable Group A are relevant but selective, while Comparable Group B is not only relevant but reflects the overall economic status of the region. The Union seems to place a lot of weight on the fact that the counties making up Comparable Group A have populations and total equalized valuations that are closer to that of the Employer than the remaining counties in Comparable Group B. Similarities of population and equalized valuation standing by themselves are not the only criteria that should be utilized in determining a proper comparable group.

The Employer has reached agreement with its courthouse, law enforcement and highway department employees and each of those settlements gave the employees a 3% wage increase on January 1, 1985 and an additional 2% wage increase on July 1, 1985. The professional employees in the Department of Social Services will receive the same increases. The Employer has made a final offer to the non-professional employees in the Department of Social Services similar to its agreements with the other bargaining units and its final offer to this bargaining unit. The non-professional employees in the Department of Social Services seek a 3% increase on January 1, 1985 and a 3% increase on July 1, 1985. The Union's proposal of a 3% increase on January 1, 1985 and a 5% increase on July 1, 1985 would result in a full 3% more in terms of year-end lift than the vast majority of the Employer's employees will receive and 2% more than is sought by the non-professional employees in the Department of Social Services. All of the Employer's bargaining units have received the same wage increases since the 1982 round of negotiations. Internal patterns of settlement are crucial elements in determining the reasonableness of final offers. Similar treatment of employees is an extremely important consideration for any employer. It must treat various groups with some degree of consistency in order to avoid internal dissension. If a bargaining unit wishes to break the pattern of settlements within an employing entity, there must be strong evidence supporting the unique position of those employees. The Employer's offer on wages is consistent with the agreements reached with the bargaining units representing the majority of its employees. Implementing the Union's final offer would break a four year trend of consistent internal wage increases and disrupt the relationships that have been established between those employees as a result of earlier arbitration cases and settlements mutually agreed upon.

All four of the counties comprising Comparable Group A have reached agreement on 1985 wage settlements. Seven of the eight counties making up Comparable Group B have reached agreement on 1985 wage settlements. Burnett, Chippewa, Polk and St. Croix counties settled with their employees for a 4% wage increase on January 1, 1985. Rusk County settled for the same 3%-2% split increase proposed by the Employer. Sawyer County settled for a 5% increase on January 1, 1985 as part of a 1984-1985 agreement. Dunn County settled for a 5%-2.5% split increase as part of a three year 1983-1985 agreement. The Employer's final offer falls within the pattern established by the agreements in either Comparable Group A or Comparable Group B. The Union's 3%-5% split increase is higher than any of the comparable wage settlements. In terms of year-end lift, it is almost twice as high as the average increase.

The bargaining history between the Employer and Union should be considered by the arbitrator. The 1979-80 dispute over wages was resolved by an arbitration award. In 1980, Arbitrator Kerkman found that the employees in this bargaining unit received a level of pay substantially lower than that of comparable employees doing comparable work in comparable communities. The offer of the Union in that 1980 arbitration was significantly higher than that of the Employer and Kerkman selected it as the way to correct the inequity that existed. The 1979-80 arbitration award of Kerkman provided catch-up and the wage increases received by the employees in this bargaining unit were larger than those received by any other of the Employer's bargaining units those years. Following the 1979-80 arbitration award, the parties reached voluntary settlements in 1981 and 1982. But in the 1983-84 arbitration before Krinsky, the catch-up issue was again on the bargaining table. Krinsky pointed out that for the past several years the parties had reached voluntary wage settlements for the same percentages given to other county employees. He questioned why there should be a catch-up through arbitration when there had been voluntary agreements with no catch-up.

The Employer points out that the crisis facing Wisconsin farmers is well documented and the state of the farm economy is relevant in this case because of the Employer's reliance on dairy farming. It represented 62% of the agricultural cash receipts in 1980. The Employer's 1982 median household income was only 76% of the state's average and is even lower as a result of the decline in the farm economy during the last two years. While the employees in this bargaining unit may be receiving wages lower than those of other employees in Comparable Group A doing similar work, no evidence was presented that they were as low as the average wage in Comparable Group B. Certainly there was no evidence that their wage scale is 76% of the state average for employees doing similar work. That would not be outrageous in a county with an economy primarily dependent upon agriculture and a median household income that is 76% of the state's average.

The increase in the consumer price index or cost-of-living is one of the statutory criteria that the arbitrator must consider in selecting a final offer. It has never been considered the most significant factor in making wage determinations, but it is a standard against which a wage increase must be measured. A comparison of the parties final offers with the increases in the consumer price index indicates that the Employer's proposal is the most reasonable. If an annualized costing is utilized, the Union's final offer results in an 8.9% increase in cost while the Employer's proposal would result in a 7.1% increase. If a year-end costing method is utilized, the Union's proposal results in an 11.1% increase and the Employer's proposal results in an 8.1% increase. Comparison of these increases with the increase in the CPI for all urban consumers of 4% and the increase for urban wage earners and clerical workers of 3.5% indicates that the Employer's final offer is more in line with the CPI indices than that of the Union.

The basic thrust of the Union's argument is that the Employer has not treated this bargaining unit fairly in the past. It asserts that providing those employees with a percentage increase identical to that given other employees only perpetuates the past inequity. The bargaining history between the Employer and the Union with regard to this bargaining unit does not support that contention. Arbitrator Kerkman's 1979-80 arbitration award provided catch-up and the wage increases received by the employees in this bargaining unit were

larger than those received by any of the Employer's bargaining units for those two years. Following the 1979-80 arbitration award the parties reached voluntary agreements in 1981 and 1982. The voluntary agreements cannot be considered as evidence of unfair treatment. They represent the results of true collective bargaining and should not be considered as evidence of unfair treatment. In the 1983-84 arbitration, the catch-up issue was again on the bargaining table and Arbitrator Krinsky found that the Union had not justified a catch-up adjustment. After reviewing the increases given by the Employer to its other bargaining units and the increases received by similar workers in comparison counties, Krinsky gave an award that provided the same percentage increase to the members of this bargaining unit that the Employer gave to its other bargaining units. That history does not indicate that the Employer has treated this bargaining unit unfairly. During the years 1979 through 1984, the Employer and the Union have had four collective bargaining agreements. The first one was reached as a result of an arbitration and it provided a catch-up adjustment for the employees. The next two were the result of mutual agreements between the Employer and the Union and cannot be considered as part of a pattern of unfair treatment by the Employer. The 1984-85 agreement was the result of an arbitrator's award denying catch-up and it should not be considered as part of a pattern of unfair treatment by the Employer. It could more accurately be described as the dispassionate decision of a neutral party who reviewed the evidence presented by both parties.

The Union asserts that its main case rests on a direct comparison of wages with employees performing similar services. All of the contiguous counties making up Comparable Group B have employees performing duties similar to those performed by the employees in this bargaining unit. The Union chooses not to make a comparison of this bargaining unit's salary scale with all of the contiguous counties. The evidence presented by the Union demonstrates that the wages in this bargaining unit are below the average wages for similar employees in Comparable Group A. No evidence is presented that would permit the arbitrator to compare the averages of similar employees in Comparable Group B with the salary scale of the employees in this bargaining unit. The Union has presented no historical wage data to show that the position of bargaining unit employees has deteriorated over the years relative to employees in other counties. The employees in this bargaining unit received catch-up pay as a result of the 1979-80 collective bargaining agreement resulting from the arbitration and since that time have received the same percentage increases as the other employees of the Employer. That evidence presented does not indicate that an arbitrator should make special catch-up adjustment.

Arbitrators are reluctant to disturb existing relationships between employees of the same employer and between employees of comparable employers that have been established for a number of years unless there is conclusive evidence that an inequity exists. The relationships between this bargaining unit and the other employees of the Employer and the employees doing comparable work in the contiguous counties was established in 1980 as a result of an arbitration award. Those relationships have remained the same ever since, either by mutual agreement or as a result of an arbitrator's award. Adjustments to the rates of this bargaining unit that would change those relationships ought to come about through collective bargaining. Collective bargaining does not just mean that the Employer must meet the demands of the Union to provide a catch-up increase for this bargaining unit. In order to achieve benefits that would change existing relationships between this bargaining unit and other employees of the Employer as well as employees doing similar work in the contiguous counties, the Union may very well have to meet some demands of the Employer. Collective bargaining involves give and take on both sides. If one party is all "take" and no "give" and does not achieve the results it seeks, it should not count on an arbitrator to achieve those results for it in the absence of facts demonstrating a significant inequity.

The arbitrator is satisfied that a case for a catch-up adjustment for the employees in this bargaining unit should be made at the bargaining table. Their rates of pay do seem to be low when compared to those of some employees of other counties who do similar work. How big an adjustment should be made can best be determined at the bargaining table. Whether any concessions or long-term arrangements are appropriate as part of an agreement on catch-up pay should not be the subject of speculation here, but should be worked out at the bargaining

table. Those are subjects that should not be determined by the arbitrator.

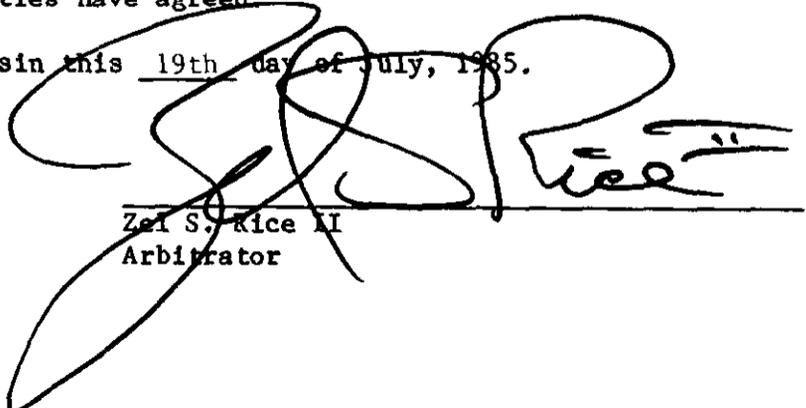
Section 111.70(4)(cm) of the Wisconsin Statutes sets forth the criteria that this arbitrator must give weight in making a decision in this matter. He must consider the lawful authority of the municipal employer. That factor does not support the position of either party. The stipulations of the parties do not give support to the final offer of either party and they have no impact on the arbitrator's decision. The Employer has not raised an issue with regard to its ability to meet the costs of any proposed settlement and that is not a significant factor. The interests and welfare of the public is one of the most significant factors to be considered by an arbitrator in making any award. In this particular case that factor does not lend added support to either party, except to the extent that employees of taxpayers facing an adverse economic climate should not expect to receive increases over and above those received by other public employees in the absence of unique circumstances. A comparison of wages, hours and conditions of employment of this bargaining unit with those of other employees of the Employer supports the proposal of the Employer. The existing wage relationships between employees were established in 1980 and they have maintained the same ever since. The Employer's proposal would continue that relative relationship while the Union's final offer would disrupt it. Comparison of the wages, hours and conditions of employment of employees performing similar services in comparable communities with this bargaining unit would tend to support the final offer of the Union if only the four largest contiguous counties are considered. The evidence presented does not compare the wages of this bargaining unit with the wages received by the employees doing similar work in all eight of the contiguous counties. The percentage increase proposed by the Employer is very comparable to the percentage increase received by its other employees and to the percentage increases received by employees performing similar services in the contiguous counties. In the absence of a clear demonstration of a substantial inequity, that factor would indicate that the Employer's final offer was more reasonable and should be selected. The increase in the cost of living is substantially below the proposal of either the Employer or the Union and it would indicate that the Employer's final offer is reasonable when that factor is considered. The overall compensation presently received by the employees was not an issue in this arbitration and neither party relied on it to support its position. The arbitrator finds that it was not a factor that had impact. Another factor considered by the arbitrator that is traditionally taken into consideration in the determination of wages, hours and conditions of employment is the history of bargaining of the parties. That factor clearly supports the position of the Employer and undermines the basic argument of the Union.

It therefore falls from the above facts and discussion thereon that the undersigned renders the following

AWARD

After full consideration of the criteria listed in the statute, and after careful and extensive examination of the exhibits and briefs of the parties, the arbitrator finds that the Employer's final offer more closely adheres to the statutory criteria than that of the Union and orders that the Employer's proposal contained in Exhibit "B" be incorporated into an agreement containing the other items to which the parties have agreed.

Dated at Sparta, Wisconsin this 19th day of July, 1985.



Zel S. Rice II  
Arbitrator

EXHIBIT "A"

RECEIVED

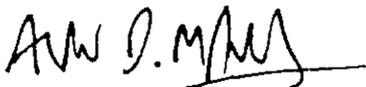
MAY 18 1985

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

FINAL OFFER OF NORTHWEST UNITED EDUCATORS  
IN THE CASE OF  
BARRON COUNTY (PUBLIC HEALTH AGENCY)  
WERC CASE 59 NO. 34034 MED/ARB-3004

1. Except as is otherwise set forth in this final offer or the attached stipulations, the terms of the 1983-84 contract will extend through December 31, 1985.
2. Article XVI - Duration: Revise to reflect a one-year contract, January 1, 1985 through December 31, 1985.
3. Addendum I - Salary Schedule:
  - a. Effective January 1, 1985 - increase all wage rates by 3 percent.
  - b. Effective July 1, 1985 - increase all wage rates by an additional 5 percent.

NORTHWEST UNITED EDUCATORS



Alan D. Manson  
Executive Director

EXHIBIT "B"

RECEIVED

MAR 11 1985

FINAL OFFER OF BARRON COUNTY  
TO THE  
BARRON COUNTY PUBLIC HEALTH AGENCY  
EMPLOYEES, NORTHWEST UNITED EDUCATORS

WISCONSIN GOVERNMENT  
RELATIONS COMMISSION

March 7, 1985

1. Except as is otherwise set forth in this final offer or the attached stipulations, the terms of the 1983-84 contract will extend through December 31, 1985.
2. Article XVI - Duration: Revise to reflect a one year contract, January 1, 1985 through December 31, 1985.
3. Addendum I - Salary Schedule
  - a. Effective January 1, 1985 - Increase all wage rates by 3%.
  - b. Effective July 1, 1985 - Increase all wage rates by an additional 2%.

Dated this 9<sup>th</sup> day of March, 1985.

ON BEHALF OF BARRON COUNTY

By

*Michael J. Burke*

Michael J. Burke  
Mulcahy & Wherry, S.C.